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AUG 03 2006

In re Application of
Bell, et al.
Application No. 10/619,975
Filed: July 15, 2003
Attorney Docket No. 2001-0699.07

OFFICE OF PETITIONS
ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed August 15, 2005, to withdraw the holding of abandonment. The petition was recently forwarded to this office for consideration.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed September 15, 2004. Accordingly, this application became abandoned on December 16, 2004. A Notice of Abandonment was mailed July 12, 2005.¹

Petitioner asserts the Office action was not received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See Withdrawing the Holding of Abandonment When Office Actions Are Not Received; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

The required statements and docket records have been submitted and considered.

The petition is granted. In view thereof, the holding of abandonment is withdrawn. A new Office action will be mailed and the period for reply will be re-started.

Technology Center AU 2853 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's support staff for re-mailing of the September 15, 2004

¹ It is noted that a final Office action dated September 15, 2004 is not found in the application file at the time of this review. However, it is noted that USPTO PALM database records indicate a final Office action was prepared on September 13, 2004 and mailed on September 15, 2004.

Office action. The period for response will be set to run from the mailing date of the new Office action.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

A handwritten signature in black ink, appearing to read 'Ed Tannouse', with a long horizontal flourish extending to the right.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy